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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,950	10/26/2007	Klaus Deinzer	042445.40088	3756

44955 7590 08/17/2009  
SQUIRE, SANDERS & DEMPSEY L.L.P.  
1 MARITIME PLAZA, SUITE 300  
SAN FRANCISCO, CA 94111

EXAMINER
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TANNER, JOCELYN C

ART UNIT	PAPER NUMBER
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3731

MAIL DATE	DELIVERY MODE
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08/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/590,950

**Applicant(s)**

DEINZER ET AL.

**Examiner**

JOCELIN C. TANNER

**Art Unit**

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-US)  
Paper No(s)/Mail Date 2/02/2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This Office Action is in response to the Amendment filed 6 May 2009. Claims 34-51 are currently pending. The Examiner acknowledges the cancellation of claims 1-33.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**2. Claims 34-38, 40, 42, 43, 45, 46, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi et al. (US Patent No. 5,947,975).**

3. Regarding claims **34-36, 40 and 48**, Kikuchi et al. disclose a lens holder including two reinforced peripheral regions (5a, 5b), as backing support (5) formed of plastic having elasticity (column 7, lines 4-5) having a constantly varying cross-section and resides between the peripheral regions, the backing support having a relaxed and open position capable of receiving an intraocular lens within an accommodating passage and a closed position that is capable of holding an intraocular lens in an elastically deformed state (Figs. 14, 15).

4. Regarding claims **37 and 43**, Kikuchi et al. disclose an undercut (7) at a transition region between the backing support (5) and the peripheral regions (5a, 5b) that assist in retaining and guiding edges of an intraocular lens (Fig. 14).

5. Regarding claims **38 and 46**, Kikuchi et al. disclose a spherical depression within the backing support that may accommodate an optical part of an intraocular lens when the holder is in a closed position (Fig. 15).
6. Regarding claims **42**, Kikuchi et al. disclose a snail-shaped cross-section at one end (Fig. 15).
7. Regarding claims **45**, Kikuchi et al. disclose peripheral regions (5a, 5b) having a recess (30) such that the intraocular lens is delivered unhindered within the lens holder (column 6, lines 61-63).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 39, 41 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US Patent No. 5,947,975) in view of Heyman (US Patent No. 5,810,834).**
10. Regarding claims **39, 41 and 47**, Kikuchi et al. disclose all of the limitations previously discussed except for a tapered region at one end between the peripheral regions that forms a guide for a push rod.

Heyman teaches a lens cartridge (50) having a tapered lumen (53) (column 4, lines 25-29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a tapered region within the lens holder of Kikuchi et al., as taught by Heyman, to assist in reducing the lens structure for insertion into an eye.

**11. Claims 44, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US Patent No. 5,947,975) in view of Buboltz et al. (US Patent No. 5,171,241)**

12. Regarding claim 44, Kikuchi et al. disclose all of the limitations previously discussed except for an undercut that is larger at one end.

Buboltz et al. teaches a lens holder having cut out portions (18c, 18d) having larger portions to support haptics (18a, 18b) (column 4, lines 54-56, Fig. 9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided larger undercut regions to the device of Kikuchi et al., as taught by Buboltz et al., to support the haptics of an intraocular lens.

13. Regarding claim 49, Kikuchi et al. discloses all of the limitations previously discussed except for connectable peripheral regions.

Buboltz et al. teaches a lens holder including a peripheral region having a protrusion (51) and a peripheral region having a slot (52) (column 4, lines 59-61, column 5, lines 30-40, Fig. 9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the peripheral regions of Kikuchi et al.

with a slot and protrusion, as taught by Buboltz et al., to lock the holder into a folded state.

14. Regarding claim 50, Buboltz et al. teaches a protuberance (51) that extends slightly beyond the end of slot (52) to facilitate the removal of the holder (column 5, lines 30-40, Fig. 9).

15. **Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US Patent No. 5,947,975) in view of Eagles et al. (US Patent No. 5,616,148).**

16. Regarding claim 51, Eagles et al. disclose all of the limitations previously discussed except for a catch element for retaining a lens holder within a housing.

Eagles et al. teach a lens holder (22) having two tangs (38, 40) that facilitate the assembly of the nozzle portion (14) that assists in the injection of an intraocular lens (column 8, lines 30-40, Fig. 8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the device of Kikuchi et al. with catches as taught by Eagles et al., to facilitate the assembly of a lens insertion device.

#### ***Response to Arguments***

17. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOCELIN C. TANNER whose telephone number is (571)270-5202. The examiner can normally be reached on Monday through Thursday between 9am and 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jocelin C. Tanner/  
8/12/2009  
Examiner, Art Unit 3731

/Anh Tuan T. Nguyen/  
Supervisory Patent Examiner, Art Unit 3731  
8/15/09